IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS EAST ST. LOUIS DIVISION

CHARLES MURPHY)	
Plaintiff,)	
)	12-CV-841-MJR
vs.)	
)	Judge Stephen C. Williams
OFFICER ROBERT SMITH,)	
OFFICER SHAWN RITCHIE)	
OFFICER RUSSELL STEWART &)	
LIEUTENANT GREGORY FULK)	

PLAINTIFF'S BRIEF SUPPORTING STATE LAW CONSPIRACY CLAIMS

NOW COMES the PLAINTIFF, by and through his attorney, FABIAN J. ROSATI, ESQ., and in support of his brief supporting state law conspiracy claims states the following:

Illinois Law

This Court has acknowledged that: "under Illinois law, a civil conspiracy requires an agreement between two or more persons to accomplish either an unlawful objective or a lawful objective through unlawful means. *Independent Trust Corp. v. Stewart Information Services Corp.*, 665 F.3d 930, 938-39 (7th Cir. 2012) (citing *McClure v. Owens Corning Fiberglass Corp.*, 720 N.E.2d 242, 258 (Ill. 1999)). Plaintiff must show an agreement and that the parties committed a tortious act in furtherance of the agreement. Id. Like a conspiracy under §1983, agreement is an essential element under Illinois law. Id. (citing *Adcock v. Brakegate, Ltd.*, 645 N.E.2d 888 (Ill. 1994)).

However, "an express agreement among all the conspirators is not a necessary element of a

civil conspiracy. The participants in the conspiracy must share the general conspiratorial objective,

but they need not know all the details of the plan designed to achieve the objective or possess the

same motives for desiring the intended conspiratorial result." Cooney v. Casady, 735 F.3d 514, 519,

2013 U.S. App. LEXIS 17255, 13-14, 86 Fed. R. Serv. 3d (Callaghan) 535, 2013 WL 4406668 (7th

Cir. Ill. 2013).

Argument

Medical personnel at the jail were not notified until approximately an hour and a half after

Plaintiff had been beaten and after sustaining fractures to his right orbital. [EXHIBIT A].

Defendants Smith, Stewart and Fulk each submitted reports providing that Plaintiff had not been

injured. [EXHIBIT B]. No Defendant undertook any measure to prevent Plaintiff from being beaten

while he was handcuffed. Nor did any Defendant report to medical personnel that Plaintiff was in

immediate need of medical attention. Defendants' actions and their failure to report were deliberate

and indifferent to Plaintiff's serious medical needs and resulted in unnecessary pain, suffering and

mental anguish to Plaintiff. Leaving Plaintiff, naked in a cell with facial fractures for over an hour,

failing to report his injuries to medical staff and falsely stating in their reports that Plaintiff had not

sustained any injuries violated Plaintiff's 8th and 14th amendment rights and is part and parcel to

Plaintiff's intentional infliction of emotional distress claims.

WHEREFORE, for the foregoing reasons Plaintiff prays this Court allow him to proceed on

his state law conspiracy claims and for such further relief to Plaintiff this Court deems proper.

Respectfully submitted,

s/Fabian J. Rosati

Attorney for the Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2014 I mailed copies of Plaintiff's *Brief Supporting State Conspiracy Claims* in the above captioned matter to the email address of Assistant Attorney General Lisa Cook, Ed Huntley of the IDOC and Attorney General Chris Higgerson and below and, notice of which is being filed electronically with the Clerk of the Court using CM/ECF system.

TO:

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